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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,125	08/28/2001	Shigeo Tsuzuki	AW-C090	9821

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EXAMINER

AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 01/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/857,125

Applicant(s)

TSUZUKI ET AL.

Examiner

Bridget Avery

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-22 and 28-38 is/are rejected.
- 7) ☒ Claim(s) 23-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The Information Disclosure Statement filed by applicant on April 22, 2002 is acknowledged.
2. The preliminary amendment filed by applicant on August 28, 2001 is acknowledged and has been entered.

#### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the recess recited in claim 23 is not described as a "recess" in the specification.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 37 recites the limitation "said fluid **transmission** apparatus" in 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 20-22, 28-32, 34, 36 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Evans et al. (US Patent 6,208,036).

Evans et al. teaches a drive apparatus for a hybrid vehicle including: an engine (12); a motor (14) including a stator (50) and a rotor (48); an automatic transmission having a fluid transmitting apparatus (24, 26, 28) with an input member (36) for receiving driving force output from the engine (12) and the motor (14); a case (22) for receiving the motor (14); and where the motor (14) is arranged radially and axially overlapping the fluid transmitting apparatus (24, 26, 28), with a predetermined gap (clearly shown in the figure) between the rotor (48) and the fluid transmitting apparatus (24, 26, 28), and where the rotor (48) is supported by at least one of the fluid transmitting apparatus (24, 26, 28), an output shaft (34) of the engine (12) and the case (22). The rotor (48) is supported by the output shaft (34) of the engine (12) and an input member (36) of the fluid transmitting apparatus (24, 26, 28). The rotor (48) includes a hub (52) at a center of rotation thereof, the hub (52) having a shaft portion (also clearly shown in the figure) contacting an output shaft (24) of the engine (12) only in an axially narrow area, thereby being supported by the output shaft (34) for free axial movement

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relative to the output shaft (34). The rotor (48) is fixed to and supported by the input member (36) of the fluid transmitting apparatus (24, 26, 28). The engine output shaft (34) and the input member (36) of the fluid transmitting apparatus (24, 26, 28) are connected and supported so as to freely move axially relative to each other. The rotor (48) is fixed to and supported by the output shaft (34) of the engine (12). The rotor (48) is supported by the case (22) and the input member (36) of the fluid transmitting apparatus (24, 26, 28). The rotor (48) is also supported by the case (22) and the output shaft (34) of the engine (12). The fluid transmitting apparatus (24, 26, 28) has a front cover covering a turbine runner (26) and serving as the input member connected to a pump impeller (24), and the front cover includes a radially extending inner portion and an axially extending middle portion and the rotor (48) is arranged on an outer side of and parallel to the middle portion with the predetermined gap therebetween. The fluid transmitting apparatus (24, 26, 28) includes a multi-disc lockup clutch (46) for connecting the input member to the turbine (26), and the lock-up clutch (46) is arranged radially inward of the middle portion of the front cover.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 33, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. ('036).

Evans et al. teaches the features described above.

Evans et al. lacks the teaching of a rotor integrally formed with the input member of a fluid transmitting apparatus, a rotor integrally formed with the output shaft of an engine and a gap predetermined to range between 0.8 and 3.5mm.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made to integrally form the rotor with the input of a fluid transmitting apparatus or with the output shaft of an engine, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. See *In re Larson et al.*, 144 USPQ 347.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made to position the elements of the drive apparatus to include a gap predetermined to range between 0.8 and 3.5mm, since it has been held that where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

#### ***Allowable Subject Matter***

7. Claims 23-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

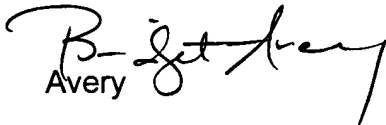
Tabata et al. shows a vehicle drive device.

Tamai et al. shows an apparatus and method for a torque and fuel control system for a hybrid vehicle.


Wakuta et al. shows a vehicle drive train.

Moroto et al. shows a hybrid vehicle.

9. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 703-308-2086.

  
Avery

December 14, 2002

  
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1/7/02